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THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV)

[7 December 1995]

Conscientious objection to military service

1. Quakers have for more than 300 years refused to participate in war, believing it is wrong to kill or to train people to kill. This is a conviction held by many people of different religious faiths and beliefs. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.

2. Friends World Committee for Consultation, which represents Quakers from around the world, welcomes resolution 1993/84 of the United Nations Commission on Human Rights which "draws attention to the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion ...".

3. Although the list of countries having or considering legislation recognizing the right of conscientious objection to military service continues to grow, there are still too many countries in which this right is not recognized in law or applied in practice. Hundreds of people continue to be imprisoned or otherwise punished because of their principled objection to the taking of human life.

4. Since the Commission last considered the subject of conscientious objection to military service, the Human Rights Committee has adopted its General Comment No. 22 (48) on article 18 of the International Covenant on Civil and Political Rights, in which it states, inter alia: "The Covenant does not explicitly refer to a right of conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief." Friends World Committee for Consultation welcomes this clarification, as well as the Committee's strong statement that "there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service".

5. Friends World Committee for Consultation urges all States parties to the Covenant, as requested by the Human Rights Committee, to include in their reports information about the conditions under which persons can be exempted from military service and on the nature and length of alternative service.

6. Quakers are also concerned about the number of young people who flee their country of origin because there is no, or no adequate, provision for conscientious objection to military service; or because they refuse to participate in internationally condemned wars or to serve in armed forces which are being used to commit genocide, war crimes or gross violations of human rights.

7. The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (UNHCR, Geneva, 1979) states, inter alia, "Fear of prosecution and punishment for desertion or draft-evasion does not in itself constitute well-founded fear of persecution under the definition" (para. 167). However, it goes on to state that "the necessity to perform military service may be the sole ground for a claim to refugee status, i.e. when a person can show that the performance of military service would have required his participation in military action contrary to his genuine political, religious or moral convictions, or to valid reasons of conscience" (para. 170). Furthermore, the Handbook indicates that where "the type of military action, with which an individual does not wish to be associated, *is condemned by the international community as contrary to basic rules of human conduct*, punishment for desertion or draft evasion, could ... in itself be regarded as persecution" (para. 171). In enunciating this principle, the Handbook took account of General Assembly resolution 33/165, which recognized the legitimacy of refusal to serve in military or police forces used to enforce apartheid *and the need for asylum for those compelled to leave their country of origin for such refusal* (emphasis added).

8. In accordance with this principle, and recognizing the increasing insistence on the accountability of the individual under international law, States should grant asylum (at least until the individual can return in safety without fear of prosecution, further military call-up, persecution or other harassment), to persons compelled to leave their country of origin, either because there is no, or no adequate, provision for conscientious objection to military service; or because the armed forces are participating in an internationally condemned war or are being used to commit genocide, war crimes or gross violations of human rights.

9. Friends World Committee for Consultation asks the Commission to:

(a) Warmly welcome General Comment No. 22 (48) of the Human Rights Committee;

(b) Clarify that conscientious objection to military service derives from reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives;

(c) Endorse the obligation not to differentiate among conscientious objectors on the basis of the nature of their particular beliefs;

(d) Respect the obligation not to discriminate against conscientious objectors because they have failed to perform military service; and

(e) Affirm the right of any person to be released from the armed forces on grounds of conscience or profound conviction;

(f) Reaffirm that asylum should be granted to those compelled to leave their country of origin because there is no, or no adequate, provision for conscientious objection to military service or because the armed forces are participating in an internationally condemned war or are being used to commit genocide, war crimes or gross violations of human rights.